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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,722	04/16/2004	Tonya Lammers	TONL122469	9946
26389	7590	08/17/2006	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			CHHABRA, ARUN S	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,722

Applicant(s)

LAMMERS, TONYA

Examiner

Arun S. Chhabra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the appendage bearing the weight of a user at an angle of up to 15 degrees must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 7, 15 and 22 are objected to because of the following informalities: In line 2 of each claim, the phrase "the body potion" should be "the body portion". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 11, 12, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the

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broad recitation "weakened more than about 50%", and the claim also recites, "weakened more than about 75%" which is the narrower statement of the range/limitation. Claims 11 and 18 recite the broad recitation "fineness rating less than about 400 denier" and the claims also recite, "fineness rating is between about 100 denier and about 300 denier" which is the narrower statement of the range/limitation. Claims 12 and 19 recite the broad recitation "fineness rating less than about 400 denier" and the claims also recite, "fineness rating is between about 150 denier and about 250 denier" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 9, 11-13, 16, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lipson et al. (US Patent Number 3,744,487).

Lipson discloses a glide assembly that has a body that is capable of covering the bottom portion of the foot of a user. The assembly reduces the surface friction a user would feel with their normal appendage or a weak or paralyzed leg and thus allows a user to glide along a gliding surface. The assembly is meant to be used in conjunction with a leg cast or orthopedic shoe and has two surfaces. The outer or glide surface 11 has a low coefficient of friction and can be made of nylon. The outer or glide surface attaches to the bottom portion of the foot of a user by attaching to an aperture 12 at the

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bottom of a resilient heel 13. The resilient heel 13 has a much higher coefficient of friction than the outer or glide surface and thus comprises an inner or grip surface such that a user's foot can be held stationary relative to the outer or glide surface 11. In order to accomplish this, the resilient heel 13 is made of rubber. Though Lipson does not discuss the exact use of neoprene rubber, it is well understood in the art that neoprene is a type of rubber that is commonly used and any type of high friction rubber would perform the function of the resilient heel of applicant as discussed in Applicant's disclosure. As discussed in the disclosure of Lipson, the coefficient of friction of the surface 11 is low enough so that the assembly can slide along a surface and disable the surface 11 from adhering to the supporting surface when little or no user weight is applied but can come to a halt and immobilize when enough user weight is applied by the appendage of the user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson in view of Pior et al. (US Patent Number 6,432,073).

Lipson discloses the claimed invention except for the body portion covering the foot of a user. Pior teaches that it is known to use an orthopedic device which covers the entire foot in the form of a boot and which has a tongue 16 that can fold up from the

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front of the foot of a user to cover the toes. Since Lipson teaches that their device can be applied to a leg brace or orthopedic boot, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the foot orthosis of Pior to the gliding assembly as taught by Lipson, since such a modification would provide the gliding assembly with a foot orthosis to be applied to and which could cover the entire foot of a user when gliding along a surface.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson in view of Pior as applied to claims 6 and 14 respectively above and further in view of Jones (US Patent Number 4,114,873).

Lipson and Pior disclose the claimed invention except for the plurality of straps. Jones teaches that it is known to use a plurality of straps as set forth in Figures 4 and 5 by reference numbers 90, 92 and 94 to secure foot device to the user's feet. Additionally, the straps of Jones comprise a rubber grip so that the straps can stay adhered to the foot of a user. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as taught by Lipson and Pior, with a plurality of straps as taught by Jones, since such a modification would provide the device with a plurality of straps for securing the device to the foot.

Claims 10, 17-20, 23, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson in view of Mallen (US Patent Number 5,540,964).

Lipson discloses the claimed invention except for the fineness rating. Mallen teaches that it is known to use fineness ratings of between 50 and 200 denier as set forth in column 5, lines 23-33. Mallen indicates that fineness ratings in this range are

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the most ideal for using at the bottom of an orthopedic cast. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the glide assembly as taught by Lipson, with a material of a fineness rating between 50-200 denier as taught by Mallen, since such a modification would provide the guide assembly with material having a fineness rating under 400 denier and between 100 and 300 denier as claimed by Applicant.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson in view of Mallen as applied to claim 17 above, and further in view of Pior et al.

Lipson discloses the claimed invention except for the body portion covering the foot of a user. Pior teaches that it is known to use an orthopedic device which covers the entire foot in the form of a boot and which has a tongue 16 that can fold up from the front of the foot of a user to cover the toes. Since Lipson teaches that their device can be applied to a leg brace or orthopedic boot, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the foot orthosis of Pior to the gliding assembly as taught by Lipson, since such a modification would provide the gliding assembly with a foot orthosis to be applied to and which could cover the entire foot of a user when gliding along a surface.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson in view of Mallen as applied to claim 17 above, and further in view of Jones.

Lipson discloses the claimed invention except for the plurality of straps. Jones teaches that it is known to use a plurality of straps as set forth in Figures 4 and 5 by reference numbers 90, 92 and 94 to secure foot device to the user's feet. Additionally,


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the straps of Jones comprise a rubber grip so that the straps can stay adhered to the foot of a user. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as taught by Lipson, with a plurality of straps as taught by Jones, since such a modification would provide the device with a plurality of straps for securing the device to the foot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Chhabra whose telephone number is 571-272-7330. The examiner can normally be reached on M-F 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


STEPHEN R. CROW
PRIMARY EXAMINER
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